

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TALLEN MARCE' FLEMING, JR.,

Plaintiff,

Case No. 09-13449

v.

HON. MARIANNE O. BATTANI

UNITED STATES FEDERAL BUREAU OF  
INVESTIGATION DETROIT MI FIELD OFFICE  
and HENRY FORD COMMUNITY COLLEGE,

Defendants.

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**ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS ON APPEAL**

Before the Court is Plaintiff Tallen Marce' Fleming, Jr.'s "Brief in Support for Motion on Notice of Appeal," (doc. 25), and Application to Proceed In Forma Pauperis, (doc. 26). Previously, this Court denied without prejudice Fleming's application to proceed *in forma pauperis* on appeal because Fleming had not included an affidavit stating the issues he intended to present on appeal. See FED. R. APP. P. 24(a)(1)(C); (doc. 24). In his new Application to Proceed In Forma Pauperis, Fleming appears to have believed that his first application was rejected for a failure to comply with Federal Rule of Appellate Procedure 24(a)(1)(A), which sets forth how applicants must show their inability to pay the costs of appeal. Thus, he submitted documents that purport to confirm his inability to pay. His application does not, however, state the issues he intends to present on appeal; thus, it again fails to comply with Federal Rule of Appellate Procedure 24(a)(1)(C).

But, Fleming's "Brief in Support for Motion on Notice of Appeal does present arguments concerning why this Court's dismissal of Fleming's complaint, (see doc. 20), should be reversed. As such, this brief appears to set forth the issues Fleming intends to present on appeal. Accordingly, the Court will consider this filing as a part of Fleming's Application to Proceed In Forma Pauperis. Nevertheless, Fleming's application still fails because the Court cannot discern from the brief any coherent argument or issue for appeal. Under 28 U.S.C. § 1915(a)(3), "An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." As Fleming has not set forth a basis for his appeal, the Court cannot find that the appeal is taken in good faith. Accordingly, the Court **CERTIFIES** that Fleming's appeal is not taken in good faith and **DENIES** his Motion to Proceed In Forma Pauperis on Appeal, (doc. 26).

**IT IS SO ORDERED.**

s/Marianne O. Battani  
MARIANNE O. BATTANI  
UNITED STATES DISTRICT JUDGE

DATED: March 1, 2010

#### **CERTIFICATE OF SERVICE**

Copies of this Order were served upon Plaintiff and counsel of record on this date by ordinary mail and/or electronic filing.

s/Bernadette M. Thebolt  
Case Manager